



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Notice of Public Meeting of the Assembly of the Administrative Conference of the United States

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Assembly of the Administrative Conference of the United States will meet during a one-day virtual plenary session to consider proposed recommendations and to conduct other business. Written comments may be submitted in advance, and the meeting will be accessible to the public.

DATES: The meeting will take place on Thursday, December 16, 2021, from 9:30 a.m. – 5:30 p.m. The meeting may adjourn early if all business is finished.

ADDRESSES: To facilitate participation during the ongoing COVID-19 pandemic, the meeting will be conducted virtually. Information on how to access the meeting will be available on the agency's website prior to the meeting at <https://www.acus.gov/meetings-and-events/event/76th-plenary-session>.

FOR FURTHER INFORMATION CONTACT: Shawne McGibbon, General Counsel (Designated Federal Officer), Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW, Washington, DC 20036; Telephone 202-480-2080; email smcgibbon@acus.gov.

SUPPLEMENTARY INFORMATION: The Administrative Conference of the United States makes recommendations to federal agencies, the President, Congress, and the Judicial Conference of the United States regarding the improvement of administrative procedures (5 U.S.C. 594). The membership of the Conference, when meeting in plenary session, constitutes the Assembly of the Conference (5 U.S.C. 595). For further information about the Conference and its activities, please visit www.acus.gov.

Agenda: The Assembly will receive updates on past, current, and pending Conference initiatives.

In addition, pending final action by the Conference's the Council, five proposed recommendations will be considered. Summaries of the recommendations appear below:

Public Access to Agency Adjudicative Proceedings. This proposed recommendation identifies best practices regarding when and how federal agencies provide public access to adjudicative proceedings. Within the legal framework established by federal law, it identifies factors agencies should consider when determining whether to open or close particular proceedings. It also offers best practices to promote public access to proceedings that agencies open to the public and recommends that agencies make the policies governing public access readily available.

Public Availability of Inoperative Agency Guidance Documents. This proposed recommendation identifies for agencies best practices for maintaining public access to agency guidance documents that are no longer in effect—that is, inoperative guidance documents. It addresses factors agencies should consider in deciding whether to include certain types of inoperative guidance documents on their websites; steps agencies can take to make it easier for members of the public to find the inoperative guidance documents in which they are interested; and what labels and explanations agencies should use to ensure that the public can readily understand the context and significance of particular inoperative guidance documents.

Quality Assurance Systems in Agency Adjudication. This proposed recommendation identifies best practices for agencies when devising and implementing systems to assess and improve the quality of decisions in adjudicative programs. It emphasizes cutting-edge techniques (including artificial intelligence) to structure the capture and analysis of data; the selection, role, and institutional placement of personnel; the use of performance metrics; efforts to ensure fairness, impartiality, efficiency, and other important institutional objectives; and the relationship between quality-assurance review and conventional appellate review.

Regulation of Representatives in Agency Proceedings. This proposed recommendation recommends that agencies consider adopting rules governing attorney and non-attorney

representatives in adjudicative proceedings in order to promote the accessibility, fairness, integrity, and efficiency of those proceedings. It provides guidance on the topics that rules might cover and recommends that agencies consider whether greater harmonization of different bodies of rules is desirable and ensure that their rules are readily accessible to representatives and the public.

Technical Reform of the Congressional Review Act. This proposed recommendation offers technical reforms of the Congressional Review Act (CRA) that clarify certain procedural aspects of the CRA while reducing administrative burdens on executive-branch agencies and congressional offices. Specifically, the proposed recommendation suggests phasing out the requirement that agencies submit paper copies of certain rulemaking materials to Congress in favor of an electronic process; making it easier to ascertain key dates and time periods relevant to review of agency rules under the CRA; and formalizing a procedure by which Members of Congress can initiate congressional review of rules that agencies conclude are not covered by the CRA.

Additional information about the proposals and the agenda, as well as any changes or updates to the same, can be found at the 76th Plenary Session page on the Conference's website prior to the start of the meeting: <https://www.acus.gov/meetings-and-events/event/76th-plenary-session>.

Public Participation: The Conference welcomes the virtual attendance of the public at the meeting, subject to bandwidth limitations. Members of the public who wish to view the meeting are asked to RSVP online at the 76th Plenary Session webpage shown above, no later than two days before the meeting, in order to ensure adequate bandwidth. For anyone who is unable to view the live event, an archived video recording of the meeting will be available on the Conference's website shortly after the conclusion of the event:

https://youtube.com/channel/UC1Gu44Jq1U7XsGdC9Tfl_zA.

Written Comments: Persons who wish to comment on any of the proposed recommendations or official statement may do so by submitting a written statement either online by clicking “Submit a comment” on the 76th Plenary Session webpage shown above or by mail addressed to:

December 2021 Plenary Session Comments, Administrative Conference of the United States, Suite 706 South, 1120 20th Street, NW, Washington, DC 20036. Written submissions must be received no later than 10:00 a.m. (EDT), Friday, December 10, 2021, to ensure consideration by the Assembly.

Authority: 5. U.S.C. 595

Dated: November 23, 2021.

Shawne McGibbon,

General Counsel.

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